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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ELECTRONIC FRONTIER FOUNDATION,)
Plaintiff,)
v.)
OFFICE OF THE DIRECTOR OF NATIONAL)
INTELLIGENCE,)
Defendant.)
NO. C 07-5278 SI
**DECLARATION OF MARCIA
HOFMANN IN SUPPORT OF
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

1. I am an attorney of record for Plaintiff Electronic Frontier Foundation (“EFF”) in this matter and a member in good standing of the California State Bar, and am admitted to practice before this Court. I have personal knowledge of the matters stated in this declaration. If called upon to do so, I am competent to testify to all matters set forth herein.

2. This declaration is submitted in support of EFF's Administrative Motion to

Consider Whether Cases Should Be Related.

3. On February 20, 2008, I phoned Andrew I. Warden, counsel for Defendant Office of the Director of National Intelligence (“ODNI”) in the above-captioned case. I informed Mr. Warden that EFF had filed the complaint in *Electronic Frontier Foundation v. Office of the Director of National Intelligence et al.*, No. 08-1023, earlier that day, and that EFF believed the new action should be related to the above-captioned case.

4. On February 21, 2008, I conferred with Mr. Warden by phone and informed him of my intention to file an administrative motion to consider whether the two cases should be related. Mr. Warden did not agree to stipulate that the cases are related, and stated that ODNI would decide whether to oppose EFF's motion after the agency had an opportunity to evaluate it. On the same day, I emailed Mr. Warden a courtesy copy of the complaint in the new action.

5. I certify that today I served a copy of EFF's Administrative Motion to Consider Whether Cases Should Be Related and the accompanying declaration and proposed order on Defendant ODNI via the Court's Electronic Case Filing System.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct to the best of my knowledge and belief. Executed February 21, 2008 in San Francisco, California.

/s/ Marcia Hofmann
Marcia Hofmann